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SUBJECT: SECOND EXTRADITION DENIAL ON GROUNDS OF JUSTICE AND PEACE

REF: 09 BOGOTA 1208

CLASSIFIED BY: William R. Brownfield, Ambassador; REASON: 1.4(B), (D)

#### SUMMARY

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11. (SBU) The Supreme Court denied the extradition request for former United Self-Defense Forces of Colombia (AUC) leader Edwar Cobos Tellez (alias "Diego Vecino") on the grounds that it would compromise the Justice and Peace Law (JPL) and leave victims without recourse to truth and reparations regarding paramilitary atrocities. This is the second time the Court has ruled against an extradition citing the JPL. Even though the Court stipulated they would reconsider the extradition if Tellez failed to meet his obligations under the JPL, it is unclear what would constitute such failure. The Ambassador's comments accepting and promising to study the Court's decision were covered by over 15 national media outlets. This is the strongest of a recent series of decisions suggesting the Supreme Court is uncomfortable with the extradition process. END SUMMARY.

#### SECOND DENIAL CITING JPL OBLIGATIONS

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12. (U) On February 17, the Supreme Court denied our request for the extradition on drug charges of former AUC leader Edwar Cobos Tellez ("Diego Vecino"). The former leader of the Heroes of Marias Bloc in the Department of Sucre demobilized in June 2006. He is currently on trial under the Justice and Peace Law for several crimes against humanity, including the massacres in Manpujan and Las Brisas in the Departments of Bolivar in 2000. Magistrate Bustos Martinez asserted in the Court's final ruling that the Government of Colombia (GOC) cannot extradite Tellez because it would "jeopardize the GOC's international obligation to fight against impunity in cases of crimes against humanity." He further argued the extradition would "negatively affect the rights of victims, leaving them without the possibility to know the truth and obtain reparations for the crimes committed by illegally armed groups."

13. (SBU) This is the second time the Court has denied one of our

extradition requests citing a lack of access to Justice and Peace defendants in the United States. The Court issued a similar ruling in August 2009 denying the extradition of drug trafficker and former AUC member Luis Edgar Medina Florez. [Note: Since late 2008, the Court has denied a total of 17 extradition requests for various reasons (reftel). End Note.] Prior to these two denials, the Court had not considered extradition a barrier to the JPL and had approved the extradition of 15 high-level former AUC leaders, including Evert Veloza ("HH") (reftel).

#### EXTRADITION NOT COMPLETELY OFF THE TABLE

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14. (SBU) As with the Medina case, the Court left open the possibility for the future extradition of Tellez if he fails to fulfill his "obligations and commitments" under the JPL and/or contribute to the "search for truth and reparations of victims." However, in both rulings the language is vague and it is unclear what constitutes such a failure. The Court also adds two other instances for which it would reconsider its decision, including if the individual is eventually removed from the JPL process and/or is found not-guilty.

#### AMBASSADOR AFFIRMS RESPECT FOR COURT'S DECISION

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15. (U) Asked for an immediate response during a press conference on February 16 and before seeing the decision, the Ambassador affirmed the United States accepts the decision by the Supreme Court without passing judgment. He said the United States "would study the decision" to do everything possible to ensure our extradition requests were approved in the future. His comments were reported in over 15 national media outlets.

#### COMMENT

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16. (C) The Court has issued a number of decisions in the past year suggesting growing discomfort with the extradition process (reftel). Part of the solution may involve adjustments to access and sentencing for extradited AUC leaders in the U.S. legal system. BROWNFIELD